

# CONGRESS OF THE UNITED STATES

DELEGATION OFFICE  
STATE OF NEW MEXICO  
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September 29, 2020

VIA ELECTRONIC TRANSMISSION

The Honorable Wilbur L. Ross, Jr.  
Secretary  
U.S. Department of Commerce  
1401 Constitution Avenue, N.W.  
Washington, DC 20233

The Honorable Dr. Steven Dillingham  
Director  
U.S. Census Bureau  
4600 Silver Hill Road  
Washington, DC 20233

Timothy P. Olson  
Associate Director of Field Operations  
U.S. Census Bureau  
4600 Silver Hill Road  
Washington, D.C. 20233

Dear Secretary Ross, Dr. Dillingham and Mr. Olson,

Following the recent federal district court ruling in *Nat'l Urb. League v. Ross*,<sup>1</sup> we urge you to continue to lead census data collection efforts in, and retain all employees and partnership specialists serving, New Mexico through October 31, 2020. As members of the New Mexico Congressional Delegation, we have a strong interest in ensuring that the federal government meets its constitutional duty to count all persons living in New Mexico for the 2020 Census. The communities of color and diverse constituencies that we serve – including rural and Tribal populations – remain among the most difficult to enumerate in the country. The importance of a fair enumeration to the people of New Mexico is not only critical to ensuring that our constituents are properly represented in Congress and in our state legislatures, but also for the allocation of federal dollars. The consequences of undercounting the people of New Mexico in the 2020 Census would be enormously damaging for at least the next decade.

In March 2020, shortly after the beginning of data collection, the COVID-19 pandemic upended the U.S. Census Bureau's Operational Plan and compelled more time for census operations.<sup>2</sup>

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<sup>1</sup> *Nat'l Urb. League v. Ross*, No. 20-CV-05799-LHK (N.D. Cal. filed Sept. 24, 2020).

<sup>2</sup> The U.S. Census Bureau adopted a final operational plan for the 2020 Census in December 2018 called the Operational Plan Version 4.0. U.S. CENSUS BUREAU, 2020 Census Operational Plan: A New Design for the 21st Century (December 2018), <https://www2.census.gov/programs-surveys/decennial/2020/program-management/planning-docs/2020-oper-plan4.pdf>.

Accordingly, on April 13, 2020, the Bureau adopted the COVID-19 Plan, which lengthened the schedule for data collection and processing, and the Secretary of Commerce’s reports of population “tabulations” to the President and the states.<sup>3</sup> Detailed media reports have revealed that President Trump and Census Bureau officials publicly stated that meeting the December 31, 2020 deadline would be impossible given the ongoing pandemic.<sup>4</sup>

However, on August 3, 2020, the Bureau announced a revised operational agenda, branded the “Replan,” which significantly reduced the COVID-19 timeframes overall from 71 ½ weeks to 49 ½ weeks. Specifically for post-processing, the timeframe was shortened from 26 weeks to 13 weeks, reverting from the deadline of April 30, 2021 the White House and the Census Bureau requested of Congress, to the original statutory deadline of December 31, 2020. Self-response was compressed from 33 ½ weeks to 29 weeks and the Non-Response Follow Up (NFRU) timeframe was compressed from 11 ½ weeks to 7 ½ weeks, with timeframes for both moved up from October 31, 2020 to September 30, 2020.<sup>5</sup> We note that separate reports issued by the Government Accountability Office and U.S. Department of Commerce Office of the Inspector General determined that the acceleration of collecting data increases the risks to obtaining a complete and accurate 2020 Census.<sup>6</sup>

Following these actions, our offices remain gravely concerned that the Census Bureau is in danger of failing to meet its own target for a nationwide enumeration rate of at least 99 percent. Indeed, as of September 28, 2020, New Mexico was below that target with a 96.9 percent total response rate.<sup>7</sup> Furthermore, we are troubled that even with a 99 percent enumeration rate, that household information will be incomplete or inaccurate. The increased risk of an undercount is commensurate with the Bureau’s use of less accurate data collection and administrative practices as it attempts to rush its operational plan. We are concerned that rushed enumeration protocols will endanger data quality in New Mexico independent of a 99 percent or greater enumeration rate. These include but are not limited to: greater reliance on proxies, enumerators collecting “headcounts” for households while using administrative records to complete missing demographic information for a household’s

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<sup>3</sup> 13 U.S.C. § 141(b), (c) (1976).

<sup>4</sup> On the day the COVID-19 Plan was announced, President Donald J. Trump stated, “I don’t know that you even have to ask [Congress]. This is called an act of God. This is called a situation that has to be. They have to give it. I think 120 days isn’t nearly enough.” Remarks by President Trump, Vice President Pence, and Members of the Coronavirus Task Force in Press Briefing (Apr. 13, 2020 5:49 P.M. EDT), <https://www.whitehouse.gov/briefings-statements/remarks-president-trump-vice-president-pence-members-coronavirus-task-force-press-briefing-25/>; On May 26, 2020, Associate Director for Field Operations, Timothy Olson, stated that “[w]e have passed the point where we could even meet the current legislative requirement of December 31. We can’t do that anymore. We -- we’ve passed that for quite a while now.” Nat’l Conf. of Am. Indians, 2020 Census Webinar: American Indian/Alaska Native at 1:17:30–1:18:30, YouTube (May 26, 2020), <https://www.youtube.com/watch?v=F6IyJMtDDgY>; similarly, on July 8, 2020, Associate Director Albert Fontenot, confirmed that the Bureau is “past the window of being able to get” accurate counts to the President by December 31, 2020. U.S. CENSUS BUREAU, Operational Press Briefing – 2020 Census Update at 20–21 (July 8, 2020), <https://www.census.gov/content/dam/Census/newsroom/presskits/2020/news-briefing-program-transcript-july8.pdf>.

<sup>5</sup> Nat’l Urb. League at 12.

<sup>6</sup> GAO-20-551R: *COVID-19 Presents Delays and Risks to Census Count* (June 2020), <https://www.gao.gov/products/GAO-20-551R> ; OIG-20-050-M: *The Acceleration of the Census Schedule Increases the Risks to a Complete and Accurate 2020 Census* (Sept. 18, 2020), <https://www.oig.doc.gov/OIGPublications/OIG-20-050-M.pdf>.

<sup>7</sup> U.S. CENSUS BUREAU, Total Response Rates by State: New Mexico (Sept. 29, 2020), <https://2020census.gov/en/response-rates/nrfu.html>.

members, lack of sufficient enumerators in hard-to-count census tracts, and the Bureau letting go of entire offices or teams of temporary employees before field operations have concluded.

Accordingly, we expect you to continue field operations until October 31, 2020 based on the Bureau's April 13, 2020 COVID-19 Plan while any appeals in the Ninth Circuit or other courts are pending. The Bureau's most recent announcement that the new target date to conclude field operations and self-response by October 5, 2020 is troublesome for our communities, and we urge the Bureau to plan for continued operations through the end of October as the current court decision intends. Moreover, we request the Bureau provide clear communication of an adjusted schedule allowing for field operations to continue until October 31, 2020 on its website and urgently communicate this to census operations teams to help New Mexico and the rest of the country achieve a complete census count.

We look forward to hearing back from you regarding a commitment to gathering a full, fair, and accurate count for the 2020 Census.

Sincerely,

/s/ Tom Udall

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Tom Udall  
United States Senator

/s/ Martin Heinrich

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Martin Heinrich  
United States Senator

/s/ Ben Ray Luján

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Ben Ray Luján  
United States Representative

/s/ Debra Haaland

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Debra Haaland  
United States Representative

/s/ Xochitl Torres Small

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Xochitl Torres Small  
United States Representative